

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Nautilus Insurance Company,)	
)	
Plaintiff,)	
)	C.A. No. 2:22-1307-RMG
vs.)	
)	
Cory Fleming and Moss & Kuhn, P.A.,)	
)	ORDER
Defendants.)	
)	
)	

While reviewing this case in advance of trial, the Court has become increasingly aware of the potential for jury confusion created by the Plaintiff's overlapping causes of action, some of which provide for an award of actual and punitive damages and some of which do not. Under these circumstances, the potential for juror confusion and for error in completing a very complicated verdict form with this jigsaw of claims and remedies strongly suggests the need to bifurcate actual and punitive damages for trial.

Rule 42(b) of the Federal Rules of Civil Procedure authorizes a trial court to bifurcate trials to promote convenience, avoid prejudice or "expedite and economize." A decision to bifurcate is left to the sound discretion of the trial court. *Sentry Select Ins. Co. v. Guess Farm Equip., Inc.*, Civil Action No. 5:12-0304-JMC, 2013 WL 5797742, at *4 (D.S.C. Oct. 25, 2013). Relevant factors for a trial court to consider in passing upon a motion to bifurcate include the potential prejudice to the parties, judicial economy, and whether a bifurcated trial will result in the duplication of evidence. 8 James Wm. Moore et al., *Moore's Federal Practice* § 42.20[4][a] (3d. ed. 2014).

After carefully reviewing the full record in this matter, the Court finds that judicial economy and the interests of justice are best served by bifurcating the actual damages and punitive damages phases of this case. The case will initially go to the jury on Plaintiff's claims for actual damages. Should the jury return a verdict in favor of Plaintiff on one or more causes of action in which a punitive damage award may be permitted, the jury will then be presented with whatever additional evidence and argument the parties seek to present on a punitive damage award.

AND IT IS SO ORDERED.

s/ Richard Mark Gergel
Richard Mark Gergel
United States District Judge

January 5, 2024
Charleston, South Carolina